

RESOLUTION # R-10-06

**RESOLUTION OF THE BOARD OF ALDERMEN
TO CLOSE A PORTION OF TERRY ESTATES DRIVE
FORMERLY KNOWN AS SPRING STREET**

WHEREAS, the Town of Black Mountain has received a request from the owners of property abutting a portion of Terry Estates Drive, formerly known as Spring Street; and

WHEREAS, the Planning Board for the Town of Black Mountain, after reviewing petitioners' request for closing this right-of-way did recommend that the street portion as described below should be closed; and

WHEREAS, the Town has the authority to close said street upon request and petition properly received pursuant to North Carolina General Statute 160A-299; and

WHEREAS, the portion of Terry Estates Drive in question is more particularly described as follows:

BEING the following described thirty foot wide easement in the Town of Black Mountain, Black Mountain Township, Buncombe County, North Carolina, which has is northern boundary the following described line:

BEGINNING at an iron pin set in the intersection of the western edge of the right of way of Black Mountain Avenue with the northern edge of the right of way of Terry Estates Drive, formerly known as Spring Street, and running with the northern edge of the right of way of Terry Estates Drive South 84 deg. 38' 06" West 135.82 feet to a mag nail; thence South 84 deg. 52' 56" West 87.45 feet to a point; thence South 83 deg. 30' 00" West 75.00 feet to a point; thence South 81 deg. 12' 53" West 30.05 feet to a point; thence South 83 deg. 30' 00" West 108.00 Feet to an iron pin; thence South 83 deg. 30' 00" West 165 feet to a point in the southern boundary of that property described in Deed Book 1564 at Page 3, Buncombe County Registry; and

WHEREAS, the Board of Aldermen of the Town of Black Mountain considered the above referenced request at its regular meeting at 6:00 p.m. on the 8th day of February, 2010, and for good cause shown, the Board of Aldermen declared its intent to close the described portion of Terry Estates Drive; and

WHEREAS, a copy of the resolution adopted by the Board of Aldermen at its February 8, 2010, meeting was published in the Black Mountain News for four (4) consecutive weeks; and

WHEREAS, notice of the adoption of the resolution of intent and the public hearing on the closing of the portion of Terry Estates Drive was posted at two prominent places along said roadway no later than February 9, 2010; and

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WHEREAS, notice of the public hearing was given to the one other adjoining property owner by certified mail, return receipt requested; and

WHEREAS, a public hearing was held to receive public comment at the regular meeting of the Board of Aldermen in the Board Room of Town Hall on Monday, March 8, 2010, at 6:00 p.m.; and

WHEREAS, it appears to the satisfaction of the Board of Aldermen that closing all of that described portion of Terry Estates Drive is not contrary to the interest of the Town, and that no individual owning property in the vicinity of said alleyway would thereby be deprived of reasonable means of ingress and egress; but

WHEREAS, the request to close the described portion of Terry Estates Drive was made to make it possible for a business on the former Black Mountain Ford property described in Book 4622 at Page 176, Buncombe County Registry, to be developed by Eco-Panels, LLC, its affiliate or subsidiary, which has yet to acquire title to that real property, and must also be able to negotiate the relocation of the gas line within the described portion of Terry Estates Drive or reconfigure its planned improvements on the property before it can utilize the property and closed street; and

WHEREAS, the Board of Aldermen approved the closing of the above described portion of Terry Estates Drive, contingent upon Eco-Panels, LLC, or its affiliate or subsidiary, being able to negotiate a relocation of the gas line or reconfigure its planned improvements, and to acquire title to the real property.

NOW, THEREFORE, BE IT RESOLVED by the Board of Aldermen of the Town of Black Mountain, that:

1. Pursuant to the North Carolina General Statute Section 160A-299, that portion of Terry Estates Drive described above shall be permanently closed to public use as a street if Eco-Panels, LLC, or its affiliate or subsidiary, arranges for the relocation of the gas line within the street portion described or certifies that it can reconfigure its planned facilities so as not to encroach into the gas line easement, and if Eco-Panels or its affiliate or subsidiary acquires title to the real property.
2. The closing is subject to the retention by the Town of easements for any existing water, sewer, or other existing utility lines.
3. Pursuant to North Carolina General Statute Section 160A-299, a certified copy of this resolution and order shall be filed in the Office of the Register of Deeds for Buncombe County, North Carolina, if and at such time as the contingencies set out above are met.
4. This resolution to close a portion of Terry Estates Drive shall be effective only if the above stated contingencies are met.

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READ, APPROVED AND ADOPTED, this 8th day of March, 2010.

ATTEST:

Carl R. Bartlett, Mayor

Rosa Hilbert, Deputy Town Clerk

Marcia D. Onieal, Town Manager